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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/876,649

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Sheila B. Filteau

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS

P.O. BOX 3001

BRIARCLIFF MANOR, NY 10510

EXAMINER

SPOONER, LAMONT M

ART UNIT

PAPER NUMBER

2626

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

02/08/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

# Office Action Summary

Application No.

09/876,649

Applicant(s)

FILTEAU ET AL.

Examiner

Lamont M. Spooner

Art Unit

2626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 20 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 2-16, 18 and 20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-16, 18 and 20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed 5/5/06, regarding claim 2 have been fully considered but they are not persuasive.

In response to applicant's arguments regarding 35 USC 112 rejected claims 3-6, 8, 10-16, and 18, applicant points to Fig. 4 and the written description that describes Fig. 4. However, the Examiner notes the disclosure currently fails to teach the currently claimed limitations. Wherein the cited section of the specification in applicant's arguments provides, **after approval**, the diagnostic findings are associated with a **language code**. However it is interpreted by claim, verification that a diagnostic finding is encoded with a language identifier indicative of a match with an operator desired reporting language. As it is applicant's position that verification and approval are correlated, the Examiner is not persuaded by applicant's arguments and the rejection remains.

In response to applicant's arguments regarding claim 2, "WFU fails to disclose"...identifying diagnostic findings **commonly repeated** in reports of a specific type...wherein said identifying comprises analyzing a plurality of reports generated at a particular site." The Examiner cannot concur. WFU

explicitly teaches “The reporting system 10 also allows for the automatic incorporation of **repetitive findings** from **previous reports** into a new report. If a previous report contains a “trackable” finding, that previous finding is brought to the attention of the radiologist.” The specific type of report is at least interpreted as reports containing diagnostic findings, furthermore, inherently previous reports with the finding being commonly repeated, all will be identified, these reports are inherently generated at a particular site. As claimed the Examiner fails to distinguish the claimed elements from the cited prior art, as it can read on the claim as currently presented, despite applicant’s arguments.

In response to applicant’s arguments regarding claim 19, the Examiner notes applicant’s arguments, “the medical report generator 100 is a source program, executable program, script or an other entity comprising a set of instruction to be performed.” The Examiner notes the medical report generator, however the Examiner fails to locate “wherein the **software application is configured with logic for verifying** that a plurality of diagnostic findings selected for inclusion in a report are reflective of the same reporting language.” More specifically, the presence of a medical report generator does not teach the claimed limitation,

opposed to a manual verification or automatic verification, or segregate which elements are automatic or manual. The Examiner notes other specific elements being taught performed by the medical report generator, see specification, p. 11.lines 5-11, and 30-32, p.12.lines 1-10. Regarding configuration of the medical report generation. However the Examiner fails to locate the claimed elements as reported in the previous rejection.

The Examiner notes the official notice of the previous rejection has been interpreted as admitted prior art, without challenge.

***Claim Rejections - 35 USC § 112***

2. Claims 3-6, 8, 10-16, 18 and 19 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The Examiner fails to locate anywhere in the disclosure (claims 5 and 6), "wherein Using comprises verifying that a diagnostic finding is encoded with a language identifier indicative of a match with an operator desired reporting language before

adding the diagnostic finding to a report (finding set).” The Applicant is directed to point out where this limitation may be found.

As per claim 19, the Examiner is unable to locate, “wherein the **software application is configured with logic for verifying** that a plurality of diagnostic findings selected for inclusion in a report are reflective of the same reporting language.”

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

4. Claim 2 is rejected under 35 U.S.C. 102(a) as being anticipated by Wake Forest University (hereinafter referred to as WFU, WO 01/11548).

As per **claim 2**, WFU discloses a method for providing an automated report in a computer based system, comprising:

identifying diagnostic findings (p.3.lines 21, 22) commonly repeated (p.20.lines 6-12-repetitive) in reports of a specific type (reports containing diagnostic findings are at least a specific type);

translating the identified findings into a reporting language (p. 30 lines 1, 2);

inserting the translated findings into a language encoded database (p.30 lines 1-4-translation look-up table-the translated findings must necessarily be inserted into the translation look-up table, before the reporting system can automatically translate the radiologist's report); and using the language encoded database in a physician-directed iterative process to identify diagnostic findings responsive to a plurality of observed images (p.30.lines 1-4, identifying a finding-creating reports, using the language table to translate it/them, p.24.line-p.25.line 6-"as each diagnostic finding is created" is interpreted as the physician-directed iterative process, p.24.lines 17, 18-located diagnostically significant feature from the image, "the thumbnail images later may be incorporated to the final report..."-Interpreted as the diagnostic findings responsive to a plurality , p.30.lines 1-4, the Examiner Interprets the final report to be utilized as discussed), wherein said identifying comprises analyzing a plurality of reports generated at a particular site (see identifying step above, furthermore, the reports are inherently generated at a particular site).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 7 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wake Forest in view of Papier et al. (Papier, US 2002/0021828).

As per **claim 7**, WFU discloses a method for providing an automated report in a computer based system, comprising:

identifying diagnostic findings (p.3.lines 21, 22) commonly repeated (p.20.lines 6, -12-repetitive) in reports of a specific type (p. 3 lines 21-p.4.line 11, -radiology-is interpreted as the specific type);

translating the identified findings into a reporting language (p. 30 lines 1, 2);

inserting the translated findings into a language encoded database (p.30 lines 1-4-translation look-up table-the translated findings must necessarily be inserted into the translation look-up table, before the reporting system can automatically translate the radiologist's report); and



using the language encoded database in a physician-directed iterative process to

identify diagnostic findings responsive to a plurality of observed images (p.24.line-p.25.line 6-"as each diagnostic finding is created" is interpreted as the physician-directed iterative process, p.24.lines 17, 18-located diagnostically significant feature from the image, "the thumbnail images later may be incorporated to the final report..."-Interpreted as the diagnostic findings responsive to a plurality, p.30.lines 1-4, the Examiner interprets the final report to be utilized as discussed); and

but lacks explicitly teaching providing access to a physician to an editor, wherein the physician generates in a desired language customized diagnostic findings that are subsequently subject to said process to identify. However, an editor generating customized information, that is used by a user was well known at the time of the invention. Therefore it would have been obvious to one ordinarily skilled in the art at the time of the invention, for WFU to have customized diagnostic findings that a physician could use to identify a diagnostic finding. Furthermore, Papier teaches having a desired reporting language, customized diagnostic findings (Fig. 4 item 238). Therefore it would've been obvious to one ordinarily skilled in the art,

at the time of the invention, to combine WFU with Papier, which would provide the benefit of allowing a physician to identify diagnostic findings responsive to a plurality of observed images in a desired language (see Fig. 4-as the preferred languages, and customized findings as the preferred/professional terms).

As per **claim 9**, WFU and Papier make obvious dependent claim 7, but lack explicitly teaching the customized diagnostic findings derive from a previously approved set of diagnostic findings in the reporting physician's desired reporting language. However previously approving information was well known in the art at the time of the invention. Therefore, at the time of the invention, it would have been obvious to one ordinarily skilled in the art to have Papier's customized diagnostic findings approved, which would provided the benefit of having a database which contains approved information in a language.

### ***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lamont M. Spooner whose telephone number is 571/272-7613. The examiner can normally be reached on 8:00 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richemond Dorvil can be reached on 571/272-7602. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
RICHEMOND DORVIL  
SUPERVISORY PATENT EXAMINER

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1/31/07